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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/639,948 | 08/17/2000 | Ned Hoffman | STA-25 | 4850 |

20575 7590 11/10/2003

MARGER JOHNSON & MCCOLLOM PC
1030 SW MORRISON STREET
PORTLAND, OR 97205

EXAMINER

BACKER, FIRMIN

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3621

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 09/639,948 | Applicant(s) HOFFMAN, NED | |
| | Examiner Firmin Backer | Art Unit 3621 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

This is in response to an amendment file on August 20th, 2003 for letter for patent filed on August 17th, 2000 in which claims 1-64 were presented for examination. In the amendment, claims 1, 4, 5, 7, 32, 36, and 39 have been amended, no claim have been canceled, and claims 65-67 have been added. Claims 1-67 are pending in the letter.

Response to Arguments

1. Applicant's arguments with respect to claims 1-67 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drexler et al (U.S. Patent no. 5,457,747) in view of Mark Rechtin (*Fingerprint Technology Makes for Best ID System*, Published by Orange County Business Journal, May 14th, 1990).

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4. As per claim 1, Drexler et al teach a method for tokenless biometric authorization of an electronic communication, using a biometric sample, a master electronic identifier, and a public communications network, wherein the method comprises an electronic communication formation, wherein at least one communication comprising electronic data is formed a user registration step, wherein a user electronically submits a registration biometric sample taken directly from the person of the user, a public network data transmittal, wherein the registration biometric sample is electronically transmitted to a master electronic identifier via a public communications network, said master electronic identifier comprising a computer database which electronically stores all of the registration biometric samples from all of the registered users, a user registration biometric storage, wherein the registration biometric sample is electronically stored within the master electronic identifier, a bid biometric transmittal, wherein a bid biometric sample, taken directly from the person of the user, is electronically transmitted to at least one electronic identifier, a user identification, wherein an electronic identifier compares the bid biometric sample to at least one registration biometric sample previously stored in an electronic identifier, for producing either a successful or failed identification of the user, an electronic communication authorization wherein upon a successful identification of the user by an electronic identifier, at least one electronic communication is authorized for execution (*see abstract, figs 1 and 3, column 2 lines 20-3 line 36, 4 lines 61-5 line 4*). Drexler et al fail to teach an inventive concept of an electronic communication is biometrically-authorized without the user having to present smartcards, or magnetic stripe cards. However, Rechlin teaches an inventive concept of an electronic communication is biometrically-authorized without the user having to present smartcards, or magnetic stripe cards (*see abstract*). However, it would have

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been obvious to one of ordinary skill in the art at time the invention was made to modify the inventive to include Rehtin's inventive concept of an electronic communication is biometrically-authorized without the user having to present smartcards, or magnetic stripe cards because this would have facilitate customer interaction with the secure transaction system.

5. As per claim 1, Drexler et al teach a system for tokenless biometric authorization of an electronic communication, using an electronic communication input apparatus, a biometric input apparatus, and a master electronic identicator, wherein said system comprises a communication input apparatus, further comprising a data entry device for formation of an electronic communication, a biometric input apparatus, further comprising a device for electronically scanning a biometric sample directly from the person of a user, at least one master electronic identicator, further comprising a computer database containing all of the electronically stored biometric samples from all of the registered users, a comparator that electronically compares received a biometric sample with previously stored biometric samples to deliver either a successful or failed identification of the user, a data transmittal public network that electronically transmits data between the biometric input apparatus and a master electronic identicator, an electronic communication authorization platform that authorizes execution of at least one electronic communication upon a successful identification of the user by an electronic identicator (*see abstract, figs 1 and 3, column 2 lines 20-3 lie 36, 4 lines 61-5 line 4*) . Drexel et al fail to teach an inventive concept of an electronic communication is biometrically-authorized without the user having to present smartcards, or magnetic stripe cards. However, Rehtin teaches an inventive concept of an electronic communication is biometrically-authorized without the user

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having to present smartcards, or magnetic stripe cards (*see abstract*). However, it would have been obvious to one of ordinary skill in the art at time the invention was made to modify the inventive to include Rehtin's inventive concept of an electronic communication is biometrically-authorized without the user having to present smartcards, or magnetic stripe cards because this would have facilitate customer interaction with the secure transaction system.

6. As per claims 2-31 and 33-67, they are dependent upon claims 1 and 32 and disclose the same inventive concept as claims 1 and 32. Therefore, they are rejected under the same rationale

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

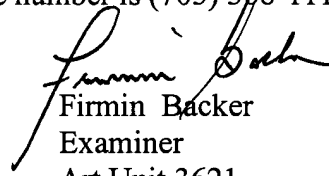
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Firmin Backer
Examiner
Art Unit 3621

October 27, 2003


JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600